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December 17, 2018

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92;
Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No.
07-135 Connect America Fund, WC Docket No. 10-90; Updating the Inter-carrier
Compensation Regime to Eliminate Access Arbitrage, WC Docket No. 18-155.*

Dear Ms. Dortch,

On December 13, 2018, Hank Hultquist, Keith Krom and the undersigned of AT&T met with Nirali Patel of Chairman Pai's Office. During the meeting, AT&T discussed the attached PowerPoint presentation related to the Commission's pending Access Stimulation Notice of Proposed Rulemaking, describing how arbitrageurs today focus their schemes on unreformed access charge elements, specifically, tandem-switching and transport charges.

AT&T encouraged swift Commission action to adopt the NPRM's "prong one" which would require the cost causer in current schemes to accept the financial obligation for the routing they have chosen in associating their high-volume services in remote areas.

Specifically, AT&T described how conference calling and chat platforms select unreasonable, inefficient networking arrangements in conjunction with partner LECs to artificially inflate inter-carrier compensation charges. The NPRM's "prong one" arose from a joint industry effort to identify a method by which the Commission could quickly, under its established authority, act to curtail these schemes, based on the Commission's full record and its legal and regulatory precedent.

AT&T also discussed how enacting the NPRM's "second prong" would allow those engaged in arbitrage to dictate the marketplace, worsening the current conditions. AT&T remains open to mutually agreeable direct interconnect opportunities for non-access stimulation traffic; however, given the transient nature of access stimulation in that it can be shifted overnight by the arbitrageurs, the Commission should ensure that those engaged in access stimulation bear the full direct interconnection costs, ensuring that industry investment is not stranded.

Further, in addition to enacting "prong one", AT&T noted that the underlying business practice of driving high volume traffic to remote areas unfairly shifts costs away from the cost causer. Access stimulation itself is an unreasonable practice that the Commission attempted to police in 2011 through its imposition of access stimulation rules. One kind of access stimulation

is a scheme that involves the assessment of switched access charges on calls to high-volume inbound calling platforms that do not include the presence of actual end users in the local exchange to which the calls are routed. This scheme is particularly unreasonable when the local exchange involved is located in a remote location, as it imposes greater actual costs, and higher corresponding charges (which are likely to exceed the actual cost), on other network users and their carriers.

To provide the Commission with greater flexibility in addressing arbitrage schemes such as this, and particularly schemes not yet devised, AT&T requested that the Commission issue an appropriate declaratory ruling stating that the assessment of switched access charges for traffic associated with high volume inbound calling platforms, like conference calling, to remote areas is itself an unjust and unreasonable practice as a matter of law and public policy under section 201 of the Act. The Commission enjoys both the precedent and authority under its existing rules and AT&T encourages the Commission to quickly act to prohibit this arbitrage practice.

Finally, AT&T reiterated its general comments regarding the need for the Commission to reform its switched access regime, encouraging Commission action to complete the transition it began in the 2011 Transformation Order to a nationwide de-tariffed regime in which carriers seek cost recovery from their own end users.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Nodine', with a long horizontal flourish extending to the right.

Matt Nodine

AT&T Services Inc.

Enclosure

Cc: Travis Litman

AT&T Ex parte

December 13, 2018

AGENDA

Access Stimulation NPRM

Access Stimulation Background

- After terminating end office charges moved to bill-and-keep, arbitrageurs focused their schemes on unreformed access charge elements.
 - For terminating calls, the focus turned to tandem-switching and transport charges.
- By artificially associating services like conference calling in remote areas, bad actors force legitimate carriers to route high traffic volumes via costly and inefficient means.
 - Access stimulators reap substantial ICC revenues by targeting unreformed charge elements, locating them in remote areas for the sole purpose of artificially inflating ICC charges.
 - No legitimate business or network engineering reason exists for the services that fuel these arbitrage schemes (e.g., free conference calling, foreign radio, etc.) to be associated with remote NPA-NXXs.
 - These schemes result in remote area traffic volumes that exceed traffic volumes in all of NYC.

Adopt NPRM “First Prong”

- The Commission can promote economic efficiency and substantially curtail arbitrage schemes by making access stimulators internalize the cost of routing decisions they control.
- The Commission should adopt the ‘first prong’ proposal AT&T and other industry members worked together to develop.
 - This proposal would shift tandem switching and transport costs to the carriers engaged in access stimulation.
 - As arbitrageurs are the “cost-causers,” it is only appropriate that they bear their schemes’ costs.
- The Commission should not adopt the NPRM’s ‘access stimulation direct interconnection’ second prong.
 - This prong gives arbitrageurs the marketplace control to force other carriers to inefficiently route traffic to remote locations.
 - This prong would promote additional arbitrage gamesmanship.